



General Assembly

January Session, 2009

Raised Bill No. 6538

LCO No. 3568

03568_____PH_

Referred to Committee on Public Health

Introduced by:
(PH)

***AN ACT CONCERNING THE COLLECTION AND RELEASE OF DATA
BY THE OFFICE OF HEALTH CARE ACCESS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-654 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) For purposes of this section "patient-identifiable data" means any
4 information that singly or collectively refers to a patient and permits
5 positive or probable identification of that patient.

6 (b) The Office of Health Care Access shall require short-term acute
7 care general or children's hospitals and may require a health care
8 facility or institution, as defined in section 19a-630, to submit [such]
9 patient-identifiable data, including inpatient discharge data, [as it
10 deems necessary to fulfill the responsibilities of the office. Such data
11 shall include] outpatient encounter data, data taken from medical
12 record abstracts and hospital bills and such other data as deemed
13 necessary by the office to fulfill the duties specified in section 19a-613.
14 The office shall specify the timing and format of such data submission,
15 [shall be specified by the office] provided the initial date of data

16 submission for all health care facilities other than short-term acute care
17 general or children's hospitals shall be no earlier than July 1, 2011. [The
18 data may be submitted] A hospital or a health care facility or
19 institution, as defined in section 19a-630, may submit data through a
20 contractual arrangement with an intermediary, [. If the data is
21 submitted through an intermediary, the] provided such hospital [shall
22 ensure] or health care facility or institution ensures that such data
23 submission is timely and that the data is accurate. The office may
24 conduct an audit of the data submitted [to] through such intermediary
25 in order to verify its accuracy. [Individual patient and physician data
26 identified by proper name or personal identification code submitted
27 pursuant to this section shall be kept confidential, but aggregate
28 reports from which individual patient and physician data cannot be
29 identified shall be available to the public.]

30 (c) The office shall release data and aggregate reports which do not
31 contain patient-identifiable data to the public. The office may release
32 patient-identifiable data in accordance with the provisions of this
33 subsection, section 2 of this act, and regulations adopted by the office
34 pursuant to subsection (d) of this section. Patient-identifiable data shall
35 only be released to qualified researchers who demonstrate to the
36 satisfaction of the office a direct and tangible noncommercial health
37 related interest in obtaining such data. For purposes of this subsection,
38 "qualified researchers" shall include treating hospitals or facilities, state
39 and federal agencies, research institutions or any agent thereof and
40 such other entities who have contracted with the office to accomplish
41 the purposes of this subsection. Patient-identifiable data released shall
42 be released in the format prescribed by the office and in accordance
43 with regulations adopted by the office pursuant to subsection (d) of
44 this section.

45 (d) The Commissioner of Health Care Access shall adopt
46 regulations, in accordance with chapter 54, to implement the data
47 collection processes set forth in this section and section 2 of this act.

48 Sec. 2. (NEW) (*Effective October 1, 2009*) (a) The Commissioner of
49 Health Care Access shall establish a data protection committee. The
50 committee shall be comprised of the following members: The
51 Commissioner of Health Care Access, or the commissioner's designee,
52 the Secretary of the Office of Policy and Management, or the
53 secretary's designee, the Commissioner of Public Health, or the
54 commissioner's designee, a hospital administrator, a physician licensed
55 by the Department of Public Health under chapter 370 of the general
56 statutes, a representative of third-party health care payers, an attorney
57 with expertise in compliance with the federal Health Insurance
58 Portability and Accountability Act of 1996 (P.L. 104-191) (HIPAA), as
59 amended from time to time, an expert in health care policy and
60 research and an expert in health information technology. All
61 appointments to the committee shall be made by the Commissioner of
62 Health Care Access not later than January 1, 2010. Members appointed
63 to the committee shall serve for a term of two years and shall serve no
64 more than four terms. The Commissioner of Health Care Access, or the
65 commissioner's designee, shall serve as the chairperson of the data
66 protection committee. The Commissioner of Health Care Access shall
67 fill any vacancy on the committee not later than sixty days after the
68 date of receiving notice of such vacancy.

69 (b) The data protection committee shall: (1) Advise the Office of
70 Health Care Access on the release of patient-identifiable data with the
71 objective of preserving patient confidentiality in a manner that
72 conforms with state and federal law but also furthers the public
73 interest in the disclosure of certain data; and (2) meet quarterly and
74 more often upon the call of the chairperson to review written
75 applications submitted to the office for the release of patient-
76 identifiable data in accordance with the provisions set forth in this
77 section and section 19a-654 of the general statutes, as amended by this
78 act.

79 (c) Any person requesting the release of patient-identifiable data
80 shall make such request, in writing, by completing a data use

81 application form provided by the Office of Health Care Access. Each
82 application for the release of patient-identifiable data shall be
83 accompanied by an application fee of one hundred dollars. The
84 Commissioner of Health Care Access may waive the application fee
85 when: (1) The applicant demonstrates to the satisfaction of the
86 commissioner that payment of such fee creates an undue hardship; or
87 (2) a reciprocal agreement is in place that allows in-state entities to
88 obtain similar information from out-of-state governmental agencies.
89 The data use application form shall require the applicant to indicate:
90 (A) A summary of the research study or research project activities
91 requiring access to patient-identifiable data; (B) the proposed data
92 uses; (C) a description of any products, including, but not limited to,
93 studies and reports that will be produced utilizing the requested data;
94 (D) security and privacy measures that the applicant will take to
95 ensure that the patient's privacy is protected; and (E) such other
96 information as may be required by the office. The Commissioner of
97 Health Care Access or the commissioner's designee shall provide
98 copies of all written requests for the release of patient-identifiable data
99 to the data protection.

100 (d) The data protection committee, after reviewing a written data
101 use application, shall approve or reject such application. If the data
102 protection committee rejects a data use application, the committee
103 shall set forth, in writing, the reasons for the rejection of the
104 application. Any applicant whose application for the release of patient-
105 identifiable data is rejected may reapply to the Office of Health Care
106 Access for the release of such data in accordance with the provisions of
107 subsection (c) of this section. If an application for the release of patient-
108 identifiable data is approved by the data protection committee, prior to
109 the release of such patient-identifiable data to the applicant, the
110 Commissioner of Health Care Access shall require that such applicant
111 sign a data use agreement on such forms as the commissioner
112 prescribes. The data use agreement shall specify the rights and
113 obligations of any person who receives patient-identifiable information
114 from the commissioner, including penalties that may be imposed for

115 established violations of such agreement.

116 Sec. 3. (NEW) (*Effective October 1, 2009*) (a) If the Commissioner of
117 Health Care Access has reason to believe that any person, who has
118 signed a data use agreement provided pursuant to section 2 of this act,
119 has disclosed patient-identifiable data or otherwise violated the terms
120 of the data use agreement, the commissioner shall immediately notify
121 such person of the alleged violation by certified mail, return receipt
122 requested. Such notice shall include: (1) A reference to any applicable
123 federal or state law; (2) a concise statement of the activities asserted to
124 constitute a violation of the data use agreement; (3) an order from the
125 commissioner advising such person to immediately cease and desist
126 from engaging in the activities that the commissioner asserts to be in
127 violation of the data use agreement; (4) a statement of the amount of
128 civil penalty or penalties that may be imposed with the date that such
129 penalty or penalties may be imposed; and (5) a statement of the
130 person's right to a hearing.

131 (b) The person to whom such notice is addressed shall have ten
132 calendar days from the date of receipt of such notice to make a written
133 request to the Office of Health Care Access for a hearing to contest the
134 alleged violation and the imposition of any civil penalty. A failure to
135 make a timely request for a hearing shall result in the issuance of a
136 final order and the imposition of penalties as prescribed in subsection
137 (c) of this section. All hearings held under this section shall be
138 conducted in accordance with the provisions of chapter 54 of the
139 general statutes.

140 (c) The Commissioner of Health Care Access may impose a civil
141 penalty of not less than one thousand dollars but not more than five
142 thousand dollars per violation for any disclosure of patient-identifiable
143 data or other violation of the terms of a data use agreement that is in
144 violation of a data use agreement entered into pursuant to section 2 of
145 this act.

146 (d) A final order of the Office of Health Care Access assessing a civil

147 penalty shall be subject to appeal as set forth in section 4-183 of the
 148 general statutes, after a hearing before the office pursuant to
 149 subsection (b) of this section, except that any such appeal shall be
 150 taken to the superior court for the judicial district of New Britain. Such
 151 final order shall not be subject to appeal under any other provision of
 152 the general statutes. No challenge to any such final order shall be
 153 allowed as to any issue which could have been raised by an appeal of
 154 an earlier order, denial or other final decision by the office.

155 (e) Civil penalties imposed pursuant to this section shall be paid not
 156 later than fifteen days after the final date by which an appeal may be
 157 taken or, if an appeal is taken, not later than fifteen days after the final
 158 judgment on such appeal. In the event that such fines are not paid, the
 159 Commissioner of Health Care Access shall notify the Attorney General
 160 who shall seek judicial enforcement of the civil penalties in accordance
 161 with the provisions of section 19a-642 of the general statutes.

162 (f) The Commissioner of Health Care Access may adopt regulations,
 163 in accordance with the provisions of chapter 54 of the general statutes,
 164 as are necessary to implement this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	19a-654
Sec. 2	<i>October 1, 2009</i>	New section
Sec. 3	<i>October 1, 2009</i>	New section

Statement of Purpose:

To allow greater access to data collected by the Office of Health Care Access while ensuring that patient privacy rights are protected.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]